

REMARKS

Claims 1 - 57 are pending in the present application. No additional claims fee is believed to be due.

Claims 1-13, 15-34, and 36-47 were rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208). Claims 12-13 and 35 were rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Venkatraman et al. (US 6,139,177). Claim 14 was rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Graziano et al. (US 20020111698 A1).

Humpleman discloses systems and methods for controlling various home appliances and home entertainment equipment with separate and dedicated user interface files from a single unit that does not change operating modes (Col. 2, lines 28-35; Col. 7, lines 23-58). McNerney discloses a system for controlling multiple simultaneous virtual reality meetings (Col. 2, lines 21-28). Venkatraman discloses devices with embedded web pages capable of controlling device functions (Col. 1, lines 62-65). Graziano discloses a web-based system for controlling and/or monitoring home devices (Page 1, paragraph [0006]). For the reasons set forth below these rejections are respectfully traversed.

I. Rejection Under 35 USC 103(a) Over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208)

Claims 1-13, 15-34, and 36-47 were rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208). Applicants respectfully traverse this rejection for two reasons: (i) the reference combination of Humpleman and McNerney do not establish a *prima facie* case of obviousness because it does not contain a suggestion or motivation to be combined or modified to achieve Applicant's claimed invention; and, (ii) the reference combination of Humpleman and McNerney does not teach each and every element of the claimed

invention as is required. Therefore, Applicants' assert that the claimed invention is unobvious and that the rejection should be withdrawn.

(i) No motivation to modify or combine. A *prima facie* case of obviousness must be based on facts, "cold hard facts." *In re Freed*, 165 USPQ 570, 571-72 (C.C.P.A. 1970). When the rejection is not supported by facts, it cannot stand. *Ex parte Saceman*, 27 USPQ2d 1472, 1474 (B.P.A.I. 1993). As is well settled, an Examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would *impel* one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 USPQ2d 1300, 1301-02 (BPAI 1993). Applicant's respectfully assert that the present office action fails to provide such reason or rationale why one would be motivated, let alone impelled, to combine the McNerney reference with the Humpleman reference in the manner suggested. Thus, the rejection fails to set forth the required facts and reasoning required to support a *prima facie* case of obviousness.

The Examiner has the burden of establishing (1) that there is suggestion or motivation to combine the references relied upon, and (2) that the references, when so combined, contain the requisite suggestion and motivation which would have led one to combine the particular disclosure relied upon and to make a composition as claimed. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). The Examiner is therefore required to demonstrate *where* in Humpleman or McNerney there is a suggestion which would have "strongly motivated" one to make the systems and methods of the present invention as claimed. *Ex parte Graselli*, 231 USPQ 393, 394 (Bd. App. 1986). The type of motivation which would have "*impelled*" one to do so (*Ex parte Levengood*, 28 USPQ2d 1300, 1301-02 (BPAI 1993)), and the type of suggestion that the changes "*should*" be made. *Ex parte Markowitz*, 143 USPQ 303, 305 (Bd. App. 1964). Here, the Examiner has not provided sufficient evidence to support a *prima facie* case of obviousness for why one would have modified Humpleman with McNerney to achieve Applicant's claimed invention.

Neither Humpleman nor McNerney contain any suggestion or motivation to be combined with the other reference in the manner suggested. Nothing in McNerney suggests the modification of, or combination with, a system for controlling a home

network of home devices to achieve Applicant's claimed invention. Because the Examiner has not identified any suggestion, reason, or other motivation, including suggestion of desirability, for why one would have been led to combine the home network control methods of Humpleman with the Virtual reality conferencing system of McNerney the rejection is in error and should be withdrawn.

(ii) Not each and every element disclosed. The reference combination of Humpleman and McNerney does not teach or suggest all of Applicants' claim limitations and therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03).

The Humpleman reference discloses systems and methods for controlling various home appliances and home entertainment equipment ("home devices") with separate and dedicated user interface files, from a single control unit (Col. 2, lines 28-35; Col. 7, lines 23-58). Humpleman further discloses that the home devices under the control of the control apparatus each supply their own custom graphical user interfaces ("GUI's") to the control device (Col. 7, lines 4-20). Humpleman does not disclose, teach nor suggest the use of any "home devices" other than those typically found in the home, such as home entertainment equipment and home appliances, and specifically excludes computers from the description of home devices (Col. 1, lines 20-31). Neither does Humpleman teach nor suggest the connection, control or communication of one home network of home devices with any other network of devices, home devices or otherwise.

The McNerney reference discloses a system for controlling multiple simultaneous virtual reality meetings (Col. 2, lines 21-28). McNerney discloses the use of a virtual reality environment to represent, through a GUI, one or more meetings. Participants and objects in such meetings are represented by images designed to visually approximate the actual objects (Col. 5, lines 51-55; Col. 6, lines 29-33). Though the disclosure in McNerney relates to the use of video conference technology, it does not disclose, teach nor suggest Applicant's claimed process of controlling conference room devices. By way of example, McNerney does not disclose, teach nor suggest Applicant's claimed elements of simultaneous display (either on separate or a common display) of device and control menus or the automatic detection at status updating upon the addition or removal of a system device.

Applicant's contend that the reference combination of Humpleman and McNerney does not establish a *prima facie* case of obviousness as the reference combination does not teach each and every element of Applicant's claimed invention. Accordingly, Applicant asserts that continued rejection of the claims on these grounds would be in error and should be withdrawn.

II. Rejection Under 35 USC 103(a) over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Venkatraman et al. (US 6,139,177)

Claims 12-13 and 35 were rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Venkatraman et al. (US 6,139,177). Applicant's contend that the reference combination of Humpleman, McNerney and Venkatraman does not establish a *prima facie* case of obviousness as the reference combination of Humpleman and McNerney, for the reasons set forth above, on which the rejection is based does not establish a *prima facie* case of obviousness. Accordingly, Applicant asserts that continued rejection of the claims on these grounds would be in error and should be withdrawn.

III. Rejection Under 35 USC 103(a) Over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Graziano et al. (US 20020111698 A1)

Claim 14 was rejected under 35 USC §103(a) as being unpatentable over Humpleman et al. (US 6,288,716), in view of McNerney et al. (US 5,999,208), in further view of Graziano et al. (US 20020111698 A1). Applicant's contend that the reference combination of Humpleman, McNerney and Graziano does not establish a *prima facie* case of obviousness as the reference combination of Humpleman and McNerney, for the reasons set forth above, on which the rejection is based does not establish a *prima facie* case of obviousness. Accordingly, Applicant asserts that continued rejection of the claims on these grounds would be in error and should be withdrawn.


Appl. No. 10/004,904
Atty. Docket No. 8798L
Amdt. dated June 2, 2005
Reply to Office Action of December 2, 2004
Customer No. 27752

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicant respectfully requests reconsideration of this application and allowance of Claims 1-57.

Respectfully submitted,
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**REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED
COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003**

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 Fed. Reg. 38611 (June 30, 2003)), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period. ***Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.***

Note: The amendment practice for reissues and reexamination proceedings, except for drawings, has not changed.

REVISED AMENDMENT PRACTICE

I. Begin each section of an amendment document on a separate sheet:

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

II. Two versions of amended part(s) no longer required:

37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

A) Amendments to the claims:

Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, **must include a complete listing** of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and **the text of each pending claim** (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

(1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), ***(previously presented) and (not entered)***. The text of all pending claims, ***including withdrawn claims***, must be submitted each time any claim is amended. Canceled ***and not entered*** claims must be indicated by only the claim number and status, without presenting the text of the claims.

(2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) ***for deletion of five characters or fewer, double brackets may be used (e.g., [[error]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks)), double brackets must be used (e.g., [[4]]).*** As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by ***including and underlining the extra text with the desired change (e.g., number 4 as number 14 as).*** An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.

(3) The text of pending claims not being currently amended, ***including withdrawn claims***, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

06/30/03 Flyer for mailing with all Office actions by all TCs (4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.

(5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.

(6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (e.g., Claims 1 – 5 ((canceled))).

Example of listing of claims (use of the word "claim" before the claim number is optional):

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a green blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

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Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

B) Amendments to the specification:

Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for *deletion of five characters or fewer, double brackets may be used (e.g., [[error]])*; and (2) *if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]])*. *As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as)*

C) Amendments to drawing figures:

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, *and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations*. Any replacement drawing sheet must *be identified in the top margin as "Replacement Sheet"* and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. *Any marked-up (annotated) copy showing changes must be labeled "Annotated Sheet Showing Changes" and accompany the replacement sheet as an appendix to the amendment.*

The figure or figure number of the amended drawing(s) must **not** be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to patent.practice@uspto.gov or by phone at (703)305-1616.

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